

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. CAA-08-2002-07

IN THE MATTER OF:)	
)	
TRANSPORTATION MANAGEMENT)	CONSENT AGREEMENT
SERVICES, INC.,)	
)	
Respondent.)	

Complainant, United States Environmental Protection Agency-Region VIII, and Respondent, Transportation Management Services, Inc., by their undersigned representatives, hereby consent and agree as follows:

1. On or about July 23, 2002, Complainant issued a Complaint to Respondent in this matter alleging certain violations of the Clean Air Act (CAA) and its implementing regulations. In the Complaint, Complainant proposed a civil penalty of \$63,511.
2. On or about August 26, 2002, Respondent filed an Answer to the Complaint.
3. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the remaining allegations. Respondent waives its right to contest any allegations at a civil proceeding in connection with the enforcement of the Final Order incorporating this Consent Agreement.

4. Respondent shall pay a civil penalty in the amount of FORTY-FIVE THOUSAND SIX HUNDRED ONE DOLLARS (\$45,601) in accordance with the following payment schedule:

<u>INSTALLMENTS</u>	<u>AMOUNT</u>	<u>DUE DATE</u>
First Installment	\$5,700.13	December 1, 2002
Second Installment	\$5,700.13	March 1, 2003
Third Installment	\$5,700.13	June 1, 2003
Fourth Installment	\$5,700.13	September 1, 2003
Fifth Installment	\$5,700.13	December 1, 2003
Sixth Installment	\$5,700.13	March 1, 2004
Seventh Installment	\$5,700.13	June 1, 2004
Eighth Installment	\$5,700.09	September 1, 2004

All payments shall be made by remitting a cashier's or certified check for the installment amount, payable to "Treasurer, United States of America," to:

Mellon Bank
EPA-Region VIII
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA 15251

The payment shall reference the name and address of Respondent and the EPA Docket Number of this action. A copy of the transmittal of payment shall be sent simultaneously to:

Jessie Goldfarb (8ENF-L)
Senior Enforcement Attorney
U.S. EPA-Region VIII
999 18th Street, Suite 300
Denver, CO 80202-2466

5. If Respondent fails to pay any of the installments by the due dates as specified in Paragraph 4, above, the remaining unpaid balance of the penalty amount of FORTY-FIVE THOUSAND SIX HUNDRED ONE DOLLARS (\$45,601) shall immediately become due and owing by Respondent. Furthermore, interest on the penalty amount shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of ONE HUNDRED DOLLARS (\$100) shall be imposed upon Respondent after the first 30 days that a payment, or any portion thereof, is overdue, with an additional charge of FIFTY DOLLARS (\$50) imposed for each subsequent 30-day period until the payment due is received. In addition, a six per cent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days of any installment due date.

6. Respondent shall not, under any circumstances, maintain, service, or repair any motor vehicle air conditioners at any time after this Consent Agreement becomes final.

7. Respondent understands that failure to comply with any of the terms of this Consent Agreement, upon incorporation into a Final Order, will constitute a breach of the Agreement and Order and may result in referral of the matter to the United States Department of Justice for enforcement of the Agreement, and for such other relief as is deemed appropriate.

8. The parties agree to submit this Consent Agreement

to the Regional Judicial Officer with a request that it be incorporated into a Final Order.

9. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full settlement of the specific violations alleged in the Complaint in this matter.

10. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the CAA, its implementing regulations, and other environmental laws.

11. Penalties paid pursuant to this Consent Agreement are not deductible for federal tax purposes under 28 U.S.C. § 162(f).

12. The parties agree to bear their own costs and attorney fees.

13. The undersigned representative of each party to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and bind that party to the Consent Agreement.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY-REGION VIII

Date: 11/05/02

By: SIGNED
Martin Hestmark, Director
Technical Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice

Date: 11/04/02

By: SIGNED
David J. Janik
Supervisory Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice

Date: 11/01/02

By: SIGNED
Jessie Goldfarb
Senior Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice

TRANSPORTATION MANAGEMENT SERVICES, INC.

Date: 11/01/02

By: SIGNED
Robert E. Butts, II
President

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

Docket No. CAA-08-2002-07

IN THE MATTER OF:)	
)	
TRANSPORTATION MANAGEMENT)	FINAL ORDER
SERVICES, INC.,)	
)	
Respondent.)	

Pursuant to 40 C.F.R. § 22.18(b)(3), the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ORDERED to comply with all of the terms of the Consent Agreement, effectively immediately upon receipt by Respondent of this Consent Agreement and Final Order.

Date: 11/05/02

By: SIGNED
Alfred C. Smith
Regional Judicial Officer

FILED IN THE REGIONAL HEARING CLERKS OFFICE ON 11/05/02